## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF VIRGINIA ABINGDON DIVISION

UNITED STATES OF AMERICA	)
	)
	) Case No. 1:04CR00050
	)
V.	) FINAL ORDER
	)
LARRY ANTHONY CLYBURN,	) By: James P. Jones
	) United States District Judge
Defendant.	)

For the reasons set forth in the Opinion accompanying this Final Order, it is **ORDERED** as follows:

- 1. The Motion to Dismiss (ECF No. 301) is GRANTED as to Claims (1), (2), (3), (4), and (6) and DENIED as to Claim (5) in the Amended Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C.A. § 2255 (ECF Nos. 293, 297);
- 2. Claim (5) of the Amended § 2255 Motion (ECF No. 297) is DISMISSED WITHOUT PREJUDICE;
- 3. The § 2255 proceeding is stricken from the active docket of the court; and

4. Based upon the court's finding that the defendant has not made the requisite showing of denial of a substantial right, a certificate of appealability is DENIED.

ENTER: January 8, 2013

/s/ James P. Jones

United States District Judge